

October 28, 2013

PRESENT: Richard Nichols, Chairman  
Michael Pierce, Vice-Chairman (Arrived at 7:00 PM)  
Philip Bean, Selectman  
Mary-Louise Woolsey, Selectman  
Michael Plouffe, Selectman  
Frederick Welch, Town Manager

6:00 PM

## SALUTE TO THE FLAG

### I. Public Comment Period (6:10)

Arthur Moody, 3 Thomsen Road, made comments as follows: Manager's item in regards to 10 minute parking signs on parts of Ocean Blvd; some signs he disagrees with in regards to Fire Lane signs; sign ordinance and "no through truck" signs; vehicles and traffic duplicate chapters; mentioned there are no ordinances to support traffic signs.

Candice Stellmach, 488 High Street, made comments as follows: there may be a contingent of supporters for Mill Pond Dam coming at seven; wonders if they can be given a shout out as to why the public hearing is not being held tonight and when it might be held. Chairman Nichols commented that at the end of the meeting he was going to suggest to the Board that they discuss the dam next week.

Chairman Nichols had Mr. Welch clarify some of the comments that were made by Mr. Moody.

### II. Announcements and Community Calendar (12:39)

Selectman Bean made comments as follows: a new lawyer in Town celebrating a birthday former Judge Casassa; shout out to Joe Jones in the challenge he has experienced recently.

Selectman Woolsey has the same comments as Selectman Bean.

Chairman Nichols commented they are still looking to fill a seat on the Energy Committee anyone interested should contact Kristina in the Town Manager's Office.

### III. Appointments (14:25)

1. Carl McMorran & John Walsh, Aquarion Water
  - a. Water service operations activities and expenses, update on current and proposed capital improvement projects.

Mr. Walsh made comments as follows: thanked Board for having them; hope to have quarterly reviews with them; focusing on infrastructure improvements; showed diagram of water system and discussed the chart in detail for the Board; 18 wells; treated at 8 facilities; 137 miles of pipe extend through Hampton, North Hampton and Rye; Aquarion staff perform thousands of operations and maintenance (O&M) work each year and discussed some of these tasks involved in O&M work; invested \$10M in infrastructure from 2007 through 2012; will invest about \$1.44M in infrastructure improvements in 2013; SCADA improvements for monitoring; Mr. McMorran will discuss the specific capital improvements in Hampton.

Mr. McMorran made comments as follows: detail discussion on the capital improvements made in Hampton between 2007 and 2013; main replacements were Auburn Ave, Auburn Ave Ext, Church Street, Highland Ave and Perkins Ave; tanks replaced Mill Road Storage Tank; painted/rehabilitated Exeter Rd and Glade Path tank; installed backup generators at Wells 7 & 9 and the Mill Road Booster; replaced/upgraded pumps and electrical systems at Well 6, 7, 9 and 11; replaced chemical feed pumps; enhanced SCADA system for operation of the system; installed security improvements; redeveloped Well 9; upgraded pressure control valve stations at Kings Highway and Tide Mill Road; replaced 18 hydrants, 46 service lines, 18 valves and 4,808 meters; inquiry from Chairman Nichols in regards to the relative cost Aquarion paid to replace water mains down at the Beach versus what the Town is expected to pay with their sewer mains and the big difference between the two numbers is about \$200,000; benefits of partnering with Hampton on Auburn, Extension and Perkins Project.

Mr. Walsh made the following additional comments: discussed WICA; more investment in water mains, helps reduce the number of main breaks; delaying implementation of surcharge for several months; looking to Town for support in delaying surcharge; for 2014 like to continue replacing water mains, Winnacunnet and Boars Head Terrace are 2014 projects; Town's future support of WICA projects; history of Aquarion; emphasized commitments to both residents and the Towns they serve.

#### Board Members Questions

Selectman Woolsey made the following points: replacement of water meters and how they are modernized; parking lot sanitary shed at Church Street Lot and how Aquarion will be doing the work up to the property line free of charge.

Selectman Bean made comments and asked questions as follows: great company and thanks for coming in; participation he just took part in at the PUC; would like a copy of the testimony at the PUC; discussed why he would like to have the testimony; thanks for the \$100,000 legal break; asked them to discuss the Customer Advisory Committee which they did; when will they be requesting another rate increase; discussed when rate increases have taken place in the past; looking at two years notice for rate increases; have not set the date for the next rate increase; Mr. Walsh commented that they are looking to have the rate increases of less than 10% in the next three years.

Selectman Woolsey followed up on the Customer Advisory Committee and how it had worked; it was an outgrowth of the Hampton Water Works.

Chairman Nichols asked about and made comments as follows which were addressed by Mr. Walsh and Mr. McMorran: reference of production through September compared to WWTP and calculations for I&I study; cannot make the amounts balance out; production referenced is for a larger area than just Hampton; asked Mr. McMorran to get together with Chris Jacobs to look at this more closely; how many connections are there in Hampton, it is between 5 and 6 thousand; Auburn Ave/Extension project and made some comments on this project including a breakdown of the cost of replacing this water main; the \$558,000 cost of the three streets, about \$13,000 per property and the total cost is huge and wonders if it includes the profit; Mr. Walsh discussed the projects debt and equity returns and how it works; what are the long term plans for water main replacement and what are the impact on future rates; how Aquarion in CT went in for a 17% increase and came out with an 8.6%; spoke about the concerns the PUC in CT had with what Aquarion has been doing; Mr. Walsh commented on the WICA program here in NH and in CT, and why they think it is good; infrastructure improvements going forward should only be adding 1 to 2% to rates.

Atty. Gearreald made comments as follows: the WICA charge is imposed through the PUC after infrastructure has been completed; a petition is usually placed at this time of year; in 4<sup>th</sup> year (presently) of they are actually seeking money to cover jobs that have already been completed, when rate is imposed it goes back to January 1<sup>st</sup>, so when asking for the Selectmen to support their proposed delay in implementation are they asking them to support a delay in when they ask for the charge or for when they impose it; Mr. Walsh answered that when they impose it, it would be several months beyond January; in Aquarion seeking to delay the implementation, and when the WICA charge is imposed it is based on a return in equity that the commission sets, Hampton was one of the communities that opposed the return on equity that the company had proposed in the latest rate increase case; whatever return on equity they are imposing affects the WICA charge; 2013 WICA will be based on the 9.6% return on equity .

There was an additional discussion on what took place in CT.

Selectman Woolsey followed up on the following: followed up on the construction cost and soil conditions they had to contend with on Auburn Ave; restructuring that took place at Aquarion; proactive in financing; amount Aquarion has invested and what Hampton has received in benefits.

The Board was in agreement that they wish to have Aquarion defer the WICA charge.

2. Chief Sullivan, Police Department (59:56)
  - a. Departmental Update

Chief Sullivan made comments as follows: provided year to date stats; most areas are down; went through each area in detail; proud of how his officers have handled the many incidents that have taken place; went through some of the incidents in detail; personnel update including fulltime officer in academy and part time officers in training; goal will be to have two groups ready to do spring training.

Selectman Woolsey made comments as follows: have they been contacted by any State Legislators to discuss the State Jetty; issue with State not being able to control peoples actions on the Jetty; provide a breakdown on the number of patrolmen, school resource officers and detectives; Chief Sullivan went through a breakdown of his staff. Selectman

Nichols pointed out that the State does not want to prohibit access to the Jetty, and the Police Chief confirmed that.

b. Noise Ordinance Update (1:06:33)

Chief Sullivan made comments as follows: will provide a quick overview of the research they have done; research on other communities who use decibels; positive and negatives they got from these communities; some legal issues that came up when looking at this; passed concerns off to Legal that they found; previous settlement that occurred in Hampton in the past; Atty. Gearreald will come back to the Board with a legal opinion; will move forward with language for a plan B.

Deputy Chief Sawyer made comments as follows: very interesting topic; was able to site a number of cases for the Board; how these cases may affect what Hampton ends up doing here; have to realize that music is freedom of speech; talked about the preacher case in more detail; narrowly define what is the governmental interest.

Board Members Woolsey, Pierce and Nichols made comments and asked questions which were addressed by Chief Sullivan and Deputy Chief Sawyer: is the loudness of an activity more of a hang up then the cut off time; hour of 11 pm should not be the cause of a problem; look at ambient noise and use it as the base in the evening; training and equipment that will be needed; some establishments that tend to be a problem; the Board will have to wrestle with what is an acceptable standard; warrant article for March; Chief plans to have language for the Board once they receive a legal opinion; noise from entertainment activities became a hot issue in 2011; absolutely have to have something on the 2014 ballot; modeling after York, ME ordinance is fine; some concerns with combining all noise issues into one ordinance and discussed concerns in detail; the Board needs to be able to revoke an entertainment license, if in violation of noise ordinance; process going forward, need a draft warrant article, subsequent to that have a public input session and then have a final version; a lot of work to do over the 8 week period.

Chairman Nichols confirmed that the Board consensus in the past on the following: different levels before 11 pm and levels after 11 pm; blanket restriction on so called outside entertainment after 11 pm; Selectmen need to have the latitude to restrict noise at an earlier hour then 11 pm in certain areas; require people to keep doors and windows closed during the hours of entertainment; Selectmen ability to approve exceptions on Town sponsored events; db. level from noon to 11 pm needs to be 75 or 80 and 11 pm to 1 am needs to be 5 to 10 db.'s lower. Deputy Chief Sawyer expressed concerns with setting db. levels. Chief Sullivan suggested waiting on setting db. levels until after receive legal opinion.

Selectman Pierce shared his experience with db. levels at the beach. Selectmen Woolsey and Plouffe both feel they need to hear the legal opinion prior to setting db. level. Selectman Bean commented that nobody is going to be happy with this and explained in greater detail why.

c. Public Inconvenience associated with Events requiring Parade and Public Gathering Licenses (1:35:52)

Chairman Nichols gave the background on this issue: Board indicated they wanted to have a general discussion on Parade & Public Gathering Licenses.

Chief Sullivan made comments as follows: data on what has happened over the past year; 19 special events in Town; 8 or 9 of these events were road races or rides that transverse through Town; some rides have been going on for over 20 years; how the department goes through the approval process; after action plan that they go through; other communities have set a limit to how many events can occur in a year.

Selectman Woolsey is ok with parades but has a real problem with all these marathons; good job done by the Police and race organizers; prime runners only took about 15-20 minutes to go through, and then hours of stragglers; will not sign a permit for these races; Selectman Pierce asked questions on some of the races half of the road is blocked on some roads and on other roads the whole road is blocked; can it be restricted to half of the street; Chief Sullivan spoke to the negative impacts on the community; need to balance these events; need to close roads with these events; how Boston shuts down many roads; when another Town said “no” it changed the rout here; good sides and bad sides; Selectman Nichols is not concerns with safety issue, as that is addressed, it is more of the issue of inconvenience; smaller races are not as much of a problem; fairness to race organizers may want to let them know now that it probably will not be approved in the future with such a large number of road closures; Chief Sullivan went through the list of events in order for the Board; many races just traverse through Town; will focus on marathons and half marathons that occur in Hampton only; Selectman Bean does not support any race greater than a 10k or races that shuts down a large number of roads; those races will probably not be approved by the Board.

Chairman Nichols brought up the first item on the Town Manager’s Report in regards to the Town having not accepted the rules and regulations established by DRED for fines and penalties at the State Beach for violation of their rules, contrary to statements by others. Chief Sullivan made comments as follows: this is something that has been germinating for quite a while; notified just before the 4<sup>th</sup> of July it was the State’s position that the Town had no authority to enforce certain Town ordinances on State property that they had been enforcing for at least 30 summers; DRED has taken the position that it is their sovereign property; concerns the Chief has with the administrative ordinance, examples are the dogs on the beach or littering on the beach, he would like the tool to manage those behaviors, use as an enforcement tool, they have had substantial communication with the DRED, working through that problem, it has not come to a resolution, legal is involved, he is not satisfied with DRED, he does not feel there is a cooperative venture, he has expressed his concerns when they meet and the legal issues are still being worked on with and he not received an answer, but the administrative ordinance is his concern. Selectman Woolsey stated her support for the Chief. He will not labor on public safety.

#### IV. Public Hearing RSA 31:95-b,III(a) (1:56:53)

1. Under the provisions of RSA 31:95-b,III(a): To accept, and receive 2 portable radios from a Grant from the NH Dept. of Safety valued at \$7075.68.

Chief Sullivan stated this is just a continuation of another grant program.

Selectman Woolsey MOTIONED to accept, and receive 2 portable radios from a Grant from the NH Dept. of Safety valued at \$7075.68 SECONDED by Selectman Plouffe.

VOTE: 5-0-0

V. Public Hearing RSA 41:9-a (1:57:40)

1. Under the provisions of RSA 41:9-a Establishment of Fees. To amend the disposal fees at the Town's Transfer Station for the following items: Stuffed furniture (chair or love seat) \$3.00 to \$7:00; Stuffed furniture (couches, sofas, sofa beds) \$5.00 to \$10:00; Appliances (washers, dryers, stoves, water heaters, dish washers, furnaces, refrigerators) \$5.00 to \$10:00; Twin size mattress or box spring \$6.00 to \$10:00; Full size and larger mattress or box spring \$10.00 to \$15:00, in order to recover the Town's costs of providing said disposal service.

Selectman Woolsey MOTIONED to amend the disposal fees at the Town's Transfer Station for the following items: Stuffed furniture (chair or love seat) \$3.00 to \$7:00; Stuffed furniture (couches, sofas, sofa beds) \$5.00 to \$10:00; Appliances (washers, dryers, stoves, water heaters, dish washers, furnaces, refrigerators) \$5.00 to \$10:00; Twin size mattress or box spring \$6.00 to \$10:00; Full size and larger mattress or box spring \$10.00 to \$15:00, in order to recover the Town's costs of providing said disposal service SECONDED by Selectman Plouffe.

VOTE: 4(Nichols, Plouffe, Bean, Woolsey)-1(Pierce)-0

VI. Approval of Minutes (2:00:06)

1. October 11, 2013

Page 3, 2<sup>nd</sup> line, change "this level or a" to "the State level or the"

Chairman Nichols MOTIONED to approve the October 11, 2013 minutes as amended SECONDED by Selectman Woolsey.

VOTE: 5-0-0

VII. Town Manager's Report (2:01:21)

1. The Town has not accepted the rules and regulations established by DRED for fines and penalties at the State Beach for violation of their rules, contrary to statements by State DRED Staff, published reports and TV news spots, the Police Chief and I are in agreement that these rules should not be accepted and the Police Department should not be enforcing them now or in the future.
2. The Galley Hatch curbing at the roadside by the Town and inside curbing by the Galley Hatch will be installed the week of November 4<sup>th</sup>, in order for the project to be finished without coming back to do additional construction in the spring.
3. I have requested that Legal prepare an amendment to the Town's Personnel Policy allowing veteran's preference in hiring. I have requested the amendment to be prepared and on the agenda for November 4<sup>th</sup>.
4. There are 10 minute parking signs on the west side of Ocean Boulevard from 19<sup>th</sup> Street to 1<sup>st</sup> Street moving south on the roadway. These signs are not in the Town Ordinance for traffic and parking. We do not know who installed the signs. Does the Board wish the parking limitations and signs to stay? If so then I will need to contact the State for authority to have the signs stay in place. If, that authority is granted, then Board will need to amend the traffic ordinance so that ticketing can take place for violations.

Board Members Woolsey and Nichols made comments and asked questions which were addressed by Mr. Welch: Galley Hatch curbing is going to be great but wishes it was done earlier and could have been if we were not tying up so much of DPW's time with trash; why do we want to keep the 10 minute parking signs; reason the 10 minute signs should be kept after receiving input from people in this area; if removed would allow parking on the west side of Ocean Blvd to go to the beach for the day; why this poses a problem to people in this area; it was the consensus that the signs should remain and the Town Manager would send a letter to the State requesting they approved them so that we can formally place them in the Ordinance; "no through trucking" signs will be on the agenda in November; who is going to NHMA conference.

Selectman Bean MOTIONED to appoint Mr. Schwotzer as Acting Town Manager for November 6<sup>th</sup> and 7<sup>th</sup> and Chief Sullivan in Mr. Schwotzer's absence SECONDED by Chairman Nichols.

VOTE: 5-0-0

Chairman Nichols MOTIONED to grant Mr. Welch permission to vote on the Board's behalf at the NHMA Conference SECONDED by Selectman Bean.

VOTE: 5-0-0

Chairman Nichols brought up implementation of part time employees at the Transfer Station starting now.

Board Members Woolsey and Bean made comments as follows: curious about training time; would like a feel for how extensive the training will be; sufficient supervision; will any of these people be operating rolling stock; don't want to just be throwing bodies in there; did query the DPW Department Head in regards to safety and there were no concerns.

Chairman Nichols MOTIONED to approve the implement the use of part time employees at the Transfer Station on the weekends as soon as possible SECONDED by Selectman Pierce.

VOTE: 4(Plouffe, Pierce, Bean, Nichols)-1(Woolsey)-0

#### VIII. Old Business (2:10:25)

##### 1. 2014 Warrant Articles (2:10:36)

Selectman Woolsey wants to check with Mark on where they are with the sewer discharge.

##### 2. Permission for Installation of Water Line in a Public Way (2:11:01)

###### a. Prevost 3-lot Subdivision – 35 Huckleberry Lane

Atty. Gearreald made comments as follows: recently went through the RSA 41:14-a process accepting the drainage easement; Mr. Welch is bringing this up for the Boards information. Mr. Welch made comments as follows: need Boards permission to go ahead with the street opening; Water Company has to sign off on and that will make the water line taxable; all fees to the Town and Aquarion are paid by the applicant.

Selectman Woolsey confirmed that this is at no cost to the Town.

Selectman Woolsey MOTIONED to APPROVE the permission for Installation of Water Line in a Public Way for the Prevost 3-lot Subdivision – 35 Huckleberry Lane SECONDED by Selectman Plouffe.

## Discussion on Motion

Selectman Pierce made comments and asked questions which were addressed by the Town Manager and the Town Attorney: will be made to follow all the guidelines; the form identifies that these water lines are taxable; excavation permit form has been edited by the DPW Director.

VOTE: 5-0-0

### 3. Church Street Bathroom Installation Costs (2:13:11)

Chairman Nichols brought this up since the cost of the waterline was not included when this was discussed a few weeks ago. Mr. Welch made comments as follows: Aquarion provides the cut from the main, across the sidewalk and curb and onto the property; they only charge a \$44 connection fee; charge a \$234 fee in May to have the water turned on.

Atty. Gearreald provided the following update to the Board: looked into status of leasing agreement with the Church; have not renewed since 2004; investment would be part of the realty the Church would own; the Town will renew the lease with the Church; The Church have asked for an accounting of the Town's revenues.

Board Members Nichols, Woolsey, and Pierce made comments and asked questions as follows: not concerned with lease and investment to realty of Church since it is a \$3,000 project; who will be constructing the shed and it was confirmed that the shed is already there; water being shut off yearly by Water Company.

### 4. Written Notification to Property Owners of Requirement of Selectmen's Permission to Work of Town Property (2:16:43)

Chairman Nichols is going to defer this but explained why it has come up and put on the agenda.

### Comments by the Board Members (2:20:52)

Selectman Woolsey wonders if there is any follow-up on work on Nor' East Lane which Mr. Welch addressed. There was an additional discussion on the steps/stair work. Chairman Nichols brought up the work done in the past on Nor' East Lane and how they did not finish the work that was to be done on the Town Property.

### Additional Old Business

Chairman Nichols made comments as follows in regards to moving forward with the Grist Mill: extension request from DES; deferred a warrant article to 2015; concerns with deferring the funding request until 2015; thinks they should move forward with a warrant article for 2014; gave his reasons why this should be done; will put this on the agenda next week for further discussion.

Selectman Woolsey made comments as follows: attention to the matter on Island Path; unacceptable situation; seeking counsel and mitigation; Mr. Welch explained that it involves State and maybe even Feds.

## IX. New Business

Selectman Woolsey made comments as follows: inquired whether the Board has read the pleadings from the Securities Regulation; concerns with Health Trust/Property Liability



Trust; sitting here looking at this stuff; theft from employees, taxpayers and retirees; getting crumbs back late; dealing with these people continuously; suggested Board read the information about the Health Trust.

X. Consent Agenda (2:27:23)

1. Entertainment License “Ron Jillian’s Italian Bar and Grill” 853 Lafayette Road
2. Raffle Permit “Hampton Firefighter’s Toy Bank Chili Cook Off” 11/21/13

Chairman Nichols requested Item #1 to be removed for discussion

Selectman Woolsey MOTIONED to MOVE the Consent Agenda Item #2 SECONDED by Selectman Pierce.

VOTE: 5-0-0

Discussion on Item #1

Chairman Nichols removed because of request for outside entertainment and concerns with proximity to residential area. He would suggest limiting outside entertainment to 10 pm.

Chairman Nichols MOTIONED to approve the Entertainment License for “Ron Jillian’s Italian Bar & Grill” 853 Lafayette Road with the stipulation that outdoor live music is only approved between noon and 10 pm SECONDED by Selectman Bean.

VOTE: 5-0-0

XI. Closing Comments (2:29:25)

Selectman Pierce agrees with Selectman Woolsey’s concerns about Property Liability and Health Trust and a discussion should be held on it. It was pointed out that the Town will be going out to bid on the Workers Compensation and Property Liability Insurance.

XII. Adjournment (2:30:45)

Selectmen Woolsey MOTIONED to adjourn at 8:26 PM SECONDED by Selectman Plouffe.

VOTE: 5-0-0

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Chairman